

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

v.

**8:07-CR-373
(FJS)**

ROGER BRUCE ROBARE, JR.,

Defendant.

APPEARANCES

**OFFICE OF THE UNITED
STATES ATTORNEY**

James T. Foley U.S. Courthouse
445 Broadway, Room 218
Albany, New York 12207-2924
Attorneys for the United States

OF COUNSEL

ROBERT A. SHARPE, AUSA

**OFFICE OF THE FEDERAL
PUBLIC DEFENDER**

39 North Pearl Street, 5th Floor
Albany, New York 12207
Attorneys for Defendant

TIMOTHY E. AUSTIN, AFPD

SCULLIN, Senior Judge

ORDER

Defendant is charged in a four-count Superseding Indictment with possession of a "sawed-off" shotgun and ammunition.¹ Defendant's counsel subpoenaed certain documents, the

¹ Count I alleges that Defendant knowingly possessed a shotgun with a modified overall length of less than 26 inches and a barrel less than 19 inches in violation of 26 U.S.C. §§ 5845(a)(2), 5861(c), and 5871. Count II alleges that Defendant knowingly possessed a firearm with a serial number not registered to him in the National Firearms Registration and Transfer Record in violation of 26 U.S.C. §§ 5841, 5861(d), and 5871. Count III alleges that Defendant, having a prior felony conviction, knowingly possessed a firearm in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). Count IV alleges that Defendant, having a prior felony conviction, knowingly possessed ammunition for a firearm in violation of 18 U.S.C. §§ 922(g)(1) (continued...)

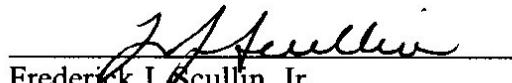
majority of which pertain to Defendant's wife, April Robare. The Court has conducted an *in camera* review of the subpoenaed records and finds that none of them are relevant to the issue of whether Defendant is guilty of the offenses with which he is charged in the Superseding Indictment.

To the extent that Defendant intends to use these documents to cross-examine April Robare should she testify at trial, the Court cannot determine whether Defendant's use of any of these documents for that purpose would be proper until the Court hears the testimony of April Robare if, in fact, the Government decides to call her as a witness. Accordingly, the Court hereby

ORDERS that Defendant's request to review these documents is **DENIED** with leave to renew should April Robare testify at trial.

IT IS SO ORDERED.

Dated: September 9, 2008
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge

¹(...continued)
and 924(a)(2). See Dkt. No. 51.